IN THE BOMBAY HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITON NO.294 OF 2003

M/s.Shilpa Shares & Securities ... Petitioner.

vs.

Shri.Maniklal Singhee & Others. ... Respondents.

Mr.M.D.Angal, for Petitioner.

Mr.N.C.Parikh i/b. Mansukhlal Hiralal & Co., for Respondents.

CORAM: D.K.DESHMUKH,J.

DATED: 15th March, 2005.

P.C.:-

1. By this petition, the petitioner challenges the Award made by the sole Arbitrator appointed by the National Stock Exchange dated 31st January,2003. By that

Award, the reference made by the petitioner has been rejected. The first challenge to the Award is that the petitioner had raised the objection to the jurisdiction of the Arbitrator, but the Arbitrator has not decided that objection. The objection on which the reliance is placed is at 'Exhibit J'. But that objection is not addressed to the Arbitrator, it is addressed to the National Stock Exchange and according to the averments in the petition, it was handed over to the Representative of the Stock Exchange who was present before the Arbitrator. The objection is neither addressed to the Arbitrator nor it was handed over to the Arbitrator, therefore, I do not see any duty on the Arbitrator to decide the objection. Therefore, from this point of view the Award cannot be disturbed.

2. The second ground on which the Award is challenged is that the Arbitrator has committed an error in dealing with the claim which is barred by law of limitation. Admittedly, the period of limitation is of Six months from the date on which the dispute arose. The Arbitrator has held that the dispute arose in the month of October,1999 when, according to the averments in the statement of claim, the respondent no.1 became liable to pay the amount and he did not pay it. I have heard the

learned Counsel for the petitioner, I have gone through the Claim statement. It is clear from the claim statement that the claim statement relates to the transactions that took place in the month of October,1999 and according to the claim statement, the liability of the respondent no.1 to pay the amount arose in October,1999. Merely because the demand notice was sent in September,2002, it cannot be said that the cause of action or dispute arose on 6th September,2002. The view taken by the Arbitrator is the correct view, no exception can be taken. Therefore, in my opinion there is no substance in the petition. The petition fails and is dismissed. The petitioner to pay costs of this petition to the respondents as incurred by the respondents.

15.3.2005 ---